

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In The Matter of)
)
Advanced Television Systems)
and Their Impact Upon the) MM Docket No. 87-268
Existing Television Broadcast)
Service) **DOCKET FILE COPY ORIGINAL**

To: The Commission

OPPOSITION TO SUPPLEMENT TO PETITION FOR RECONSIDERATION

Diversified Communications ("Diversified"), licensee of Station WPDE(TV), Florence, South Carolina, by its attorneys, and pursuant to 47 C.F.R. § 1.429(f),¹ hereby opposes the Supplement to Petition for Reconsideration of the FCC's *Sixth Report and Order* filed by Cosmos Broadcasting Corporation ("Cosmos") in the above-captioned proceeding.²

Cosmos is the licensee of television station WIS(TV), NTSC Channel 10, Columbia, South Carolina and was paired with DTV Channel 41 in the Commission's *Sixth Report and Order*. Because the Florence-Myrtle Beach market and the Columbia market are adjacent to each other and the DTV operations in one market could interfere with the NTSC or DTV operations in the adjacent market, Diversified has standing to oppose Cosmos' supplement to its petition.³ *Sanders Bros. v. FCC*, 309 U.S. 470 (1940).

¹ This opposition is filed within 10 days of service of the supplement on Diversified, since it is unclear as to the filing deadline for an opposition to a supplement to a petition for reconsideration.

² *Sixth Report and Order*, MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth Report and Order*").

³ Diversified filed a timely Opposition to Cosmos' Petition for Reconsideration with the Commission on July 18, 1997.

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Cosmos Requests the Commission Modify the DTV Table
and Reserve Cosmos' Original DTV Channel Allotment

In its Supplement to Petition for Reconsideration, Cosmos requests that the Commission modify the DTV Table of allotments and pair Cosmos' NTSC Channel 10 with DTV Channel 11, rather than DTV Channel 41, the channel it was assigned. In addition to assigning WIS(TV) a new DTV channel, Cosmos requests that the Commission reserve WIS(TV)'s initial DTV allotment, as provided in the *Sixth Report and Order*, until Cosmos has fully engineered the newly requested channel.⁴ The Commission and its staff have worked diligently to issue DTV channel assignments and maximum effective radiated power ("ERP") assignments that minimize short spacing and interference to other broadcasters. Cosmos was allotted DTV Channel 41, which is an efficient digital channel assignment, and was assigned a maximum ERP of 1 mW, which is the maximum power allotted by the Commission. Cosmos' request that the Commission modify the DTV Table to tentatively assign it an alternate DTV channel while reserving Cosmos' original DTV channel allotment is unreasonable. No other stations have received two DTV channel assignments, nor should they. The conversion to a digital broadcast system will be difficult and should not be complicated by modifications to the DTV Table upon the whim of one broadcaster who requests two DTV channel assignments.

Effect of Modification of DTV Table On WPDE(TV)

As stated above, WIS-TV received an efficient digital channel assignment and was assigned a maximum ERP of 1 mW, the maximum power allotted by the Commission. Cosmos is requesting changes to the DTV Table of Allotments that it admits will have a short spacing

⁴ In effect, Cosmos is requesting that the Commission allot it two DTV channels for each of the eight stations discussed in its petition.

effect on co-channel WTOG(TV), Savannah, Georgia, co-channel WTVD(TV), Durham, North Carolina, and adjacent-channel WRDW(TV), Augusta, Georgia, which would result in new interference to each of these facilities' service areas.⁵ Although Cosmos argues that the proposed modification to the DTV Table would have a minimal impact on the viewing audiences of each of these stations, the FCC clearly states in the *Sixth Report and Order* that the party requesting "a modification of the DTV Table show that the modification would not cause any new predicted interference to other DTV allotments or existing NTSC stations."⁶ Cosmos has failed to make such a showing.

Furthermore, WPDE(TV) was assigned channel 16 with a maximum ERP of 50 kW, the lowest of all of the power assignments made by the Commission.⁷ While Diversified is concerned that this power assignment will not be sufficient for it to cover its metro area much less its full designated market area ("DMA") with a proper signal, Diversified accepted the FCC's assignment without opposition because the *Sixth Report and Order* and the Commission's Rules⁸ clearly state that the FCC will, on a case by case basis, allow stations to maximize their facilities to protect existing NTSC coverage areas provided such increases do "not result in new interference or statements agreeing to the change from any co-channel or adjacent channel stations that might be affected."⁹

⁵ Supplement to Petition for Reconsideration at p. 6.

⁶ *Sixth Report and Order* at p. 101 para. 22 (emphasis added).

⁷ *Sixth Report and Order* at Appendix B-37.

⁸ 47 C.F.R. § 73.622(f)(3).

⁹ *Sixth Report and Order* at para. 31.

Diversified believes it will take as much as 500 kW to reach its DMA. However, Diversified did not file any petitions for changes to the FCC's DTV Table of Allotments because of uncertainty as to the actual DTV service that will be realized. DTV systems have not been constructed nor tested at this time and it would be premature to request a power increase until tests have been performed. Furthermore, Diversified is aware that any changes in power and/or channel assignments requested by one station would cause a ripple effect from market to market to market as modifications to facilities are made. Granting facility modifications, including new channel assignments and power increases, would be premature at this time. As all broadcasters and the Commission are well aware, DTV is an emerging technology and only as facilities are built will broadcasters and the Commission truly be able to judge each station's actual DTV coverage area.

As acknowledged by Cosmos, modifications to the DTV Table will result in an interference "ripple" which requires subsequent changes to other facilities.¹⁰ Diversified believes this ripple effect could prevent WPDE(TV) from eventually increasing its power to the maximum permitted under the Commission's rules.

Conclusion

Based upon the foregoing, Diversified respectfully requests that the Commission deny Cosmos' Petition for Reconsideration of the *Sixth Report and Order* based on the impact that Cosmos' petition will have on the market as a whole, the potential adverse impact the petition

¹⁰ Supplement to Petition for Reconsideration at p. 2.

will have on facilities as they are built and specifically the potential impact the requested modification to the Table of Allotments will have on WPDE(TV).

Respectfully submitted,

DIVERSIFIED COMMUNICATIONS

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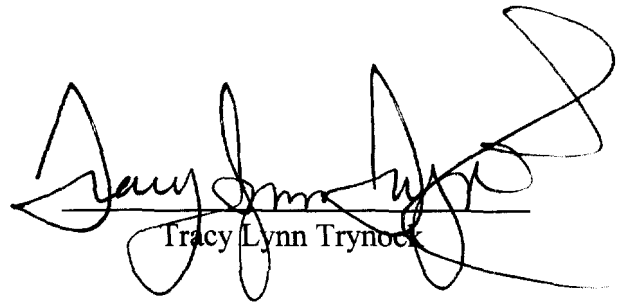
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September 4, 1997

CERTIFICATE OF SERVICE

I, Tracy Lynn Trynock, hereby certify that on this 4th day of September, 1997, copies of the foregoing "Opposition to Supplement to Petition for Reconsideration" have been served by first class mail, postage prepaid, upon the following:

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